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FINANCING OF THE INTERNATIONAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF THE FORMER YUGOSLAVIA SINCE 1991

Report of the Fifth Committee (Part IV)

Rapporteur: Mr. Larbi DJACTA (Algeria)

I. INTRODUCTION

1. The previous recommendations made by the Fifth Committee to the General Assembly under agenda item 146 appear in the report of the Committee contained in documents A/49/810 and Add.1 and 2.

2. The Committee considered the item further at its 66th meeting, on 14 July 1995. Statements and observations made in the course of the Committee's consideration of the item are reflected in the relevant summary record (A/C.5/49/SR.66).

3. For its consideration of the item, the Committee had before it the report of the Secretary-General (A/C.5/49/42) and the report of the Advisory Committee on Administrative and Budgetary Questions (A/49/7/Add.12).

II. CONSIDERATION OF DRAFT RESOLUTIONS A/C.5/49/L.44 and L.66

4. At the 66th meeting, on 14 July, the representative of Austria introduced a draft resolution entitled "Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991" (A/C.5/49/L.66), which was submitted by the Chairman on the basis of informal consultations.

5. At the same meeting, the Committee adopted draft resolution A/C.5/49/L.66 without a vote (see para. 6). Subsequently, draft resolution A/C.5/49/L.44 entitled "Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991" was withdrawn by its sponsors.

III. RECOMMENDATION OF THE FIFTH COMMITTEE

6. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolution:

Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

The General Assembly,

Recalling its resolutions 47/235 of 14 September 1993 and 48/251 of 14 April 1994,

Recalling also its decision 49/471 of 23 December 1994, by which it authorized the Secretary-General to enter into commitments in the additional amount of 7 million United States dollars to allow the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 to continue its activities until 31 March 1995, without prejudice to any decisions that the Assembly might take with regard to budgetary and administrative matters and to the mode of financing,

Affirming that the International Tribunal must be assured of secure and stable financing so that it may fulfil its role in full and effectively,

Having considered the report of the Secretary-General 1/ on the financing of the International Tribunal and the related report of the Advisory Committee on Administrative and Budgetary Questions, 2/

1. Endorses the observations and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions, 2/ subject to the provisions of the present resolution;

2. Decides, subject to the completion of the reclassification process, to approve the three posts of senior investigators to undertake substantive high-level investigations and to oversee the nine investigation teams in the Office

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1/ A/C.5/49/42.

2/ A/49/7/Add.12.

of the Prosecutor, pending a further review of the question by the Advisory Committee in the context of estimates for the International Tribunal for 1996-1997;

3. Requests the Secretary-General to review the staffing requirements of the electronic support services and communications in the Registry to ensure that its organizational structure is commensurate with the tasks to be performed;

4. Reaffirms that questions related to the rules of procedure and evidence of the International Tribunal are matters to be decided by the International Tribunal;

5. Requests the Secretary-General to provide, in the context of the next budget presentation for the International Tribunal, additional information on the costs of ensuring free legal assistance, as outlined in paragraph 30 of the report of the Advisory Committee; 2/

6. Also requests the Secretary-General to include in the context of the next budget presentation for the International Tribunal information and/or proposals for the long-term requirements for the carrying out of sentences and for the protection of witnesses;

7. Requests the International Tribunal and the International Court of Justice to continue negotiations on common administrative arrangements with the aim of obtaining economies of administrative services;

8. Also requests the International Tribunal to establish guidelines to govern recourse to and use of expertise in the Chambers;

9. Notes that the estimated requirements for payment to the host Government for detention facilities for the accused reflect actual fixed and estimated variable costs in 1994-1995;

10. Emphasizes the importance of ensuring that recruitment for the International Tribunal be implemented strictly in accordance with the Staff Regulations and Rules of the United Nations, taking account of Articles 8, 100 and 101 of the Charter of the United Nations, and that, in recruiting consultants and experts, the International Tribunal should avail itself of sources of expertise on as wide a geographical basis as possible;

11. Expresses its appreciation to the Governments and others that have provided voluntary contributions to the International Tribunal;

12. Invites Member States and others to make further voluntary contributions to the International Tribunal that are acceptable to the Secretary-General;

13. Requests the Secretary-General to issue specific guidelines on the requirements for receipt of contributions and application of funds for the International Tribunal;

14. Also requests the Secretary-General to include in future budget presentations for the International Tribunal information on voluntary contributions in cash and in kind and to indicate where they are assigned;

15. Reaffirms that the acceptance of voluntary contributions in kind or in personnel, as well as voluntary financial contributions, must be consistent with the need to ensure the impartiality and independence of the International Tribunal at all times and that such contributions should be considered supplementary to the assessed contributions;

16. Requests the Secretary-General to include detailed information in his next report on the International Tribunal on the acceptance and use of voluntary contributions, particularly those in kind or in personnel, pursuant to paragraph 15 above;

17. Reaffirms the role of the General Assembly, as set out in Article 17 of the Charter, as the organ to consider and approve the budget of the Organization and the apportionment of its expenses among Member States;

18. Again expresses its concern that advice given to the Security Council by the Secretariat on the nature of the financing of the International Tribunal did not respect the role of the General Assembly as set out in Article 17 of the Charter;

19. Reaffirms that the expenses of the International Tribunal should be met through additional resources on the basis of assessed contributions and that they shall be financed through a separate special account outside the regular budget;

20. Decides to appropriate to the special account for the International Tribunal referred to in General Assembly resolution 47/235 a total amount of 43,991,600 United States dollars gross (39,095,900 dollars net) for the period from 1 January 1994 to 31 December 1995, inclusive of the commitment authority of 26,175,000 dollars authorized under the provisions of General Assembly resolutions 48/251 of 14 April 1994 and 49/242 of 13 April 1995 and decisions 49/471 A and B of 23 December 1994 and 6 April 1995 and the amount of 276,200 dollars expended in 1993;

21. Decides also, as an ad hoc and exceptional arrangement, that Member States will waive their respective shares in the credits arising from previous budgets of the United Nations Protection Force in the total amount of 21,995,800 dollars gross (19,547,950 dollars net) and hence accept an equivalent increase in the assessments for a future budget period of the United Nations Protection Force in an amount of 21,995,800 dollars gross (19,547,950 dollars net), to be transferred to the special account for the International Tribunal from the special account established for the United Nations Protection Force pursuant to General Assembly resolution 46/233 of 19 March 1992;

22. Decides further to apportion 21,995,800 dollars gross (19,547,950 dollars net) for the period from 1 January 1994 to 31 December 1995

among Member States in accordance with the scale of assessments for the year 1994 3/ to be applied against a portion thereof, that is, 6,130,350 dollars gross (5,528,100 dollars net), which is the amount pertaining to the period ending 31 December 1994, and the scale of assessments for the year 1995 4/ to be applied against the balance, that is, 15,865,450 dollars gross (14,019,850 dollars net), for the period from 1 January to 31 December 1995;

23. Decides that, in accordance with the provisions of its resolution 973 (X) of 15 December 1955, there shall be set off against the apportionment among Member States, as provided for in paragraph 22 above, their respective share in the Tax Equalization Fund of the estimated staff assessment income of 2,447,850 dollars approved for the International Tribunal for the period from 1 January 1994 to 31 December 1995, 602,250 dollars being the amount pertaining to the period ending 31 December 1994 and the balance, that is, 1,845,600 dollars, to the period from 1 January to 31 December 1995;

24. Requests the Secretary-General to administer these resources with a maximum of economy and efficiency;

25. Decides that appropriations for 1996-1997 under the special account referred to in paragraph 19 above, the amount of which shall be determined during the fiftieth regular session of the General Assembly, shall be financed equally through the modes of financing referred to in paragraphs 21 and 22 above;

26. Requests the Secretary-General to submit a performance report at the end of each biennium no later than May 1996 and May 1998 respectively;

27. Decides to review the mode of financing of the International Tribunal at its fifty-second regular session;

28. Requests the Secretary-General to submit estimates for the requirements of the International Tribunal for 1996-1997 by 30 November 1995;

29. Decides to include in the provisional agenda of its fiftieth session the item entitled "Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991".

3/ See resolutions 46/221 A and 48/223 A and decision 47/456.

4/ See resolution 49/19 B.